

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1229
93RD GENERAL ASSEMBLY

Reported from the Committee on Children and Families April 26, 2006 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 1229 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

5458L.06C

AN ACT

To repeal sections 135.327 and 135.333, RSMo, and to enact in lieu thereof two new sections relating to tax credits for children in crisis.

Be it enacted by the General Assembly of the state of Missouri, as follows:

- Section A. Sections 135.327 and 135.333, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.327 and 135.333, to read as follows:
- 135.327. 1. **As used in this section, the following terms shall mean:**
- (1) **"CASA", an entity which receives funding from the court appointed special advocate fund established under section 476.777, RSMo;**
- (2) **"Child advocacy centers", the regional child assessment centers listed in subsection 2 of section 210.001, RSMo;**
- (3) **"Contribution", amount of donation to qualified agency;**
- (4) **"Crisis care", temporary care for children whose age ranges from birth through seventeen years of age whose parents or guardian are experiencing an unexpected and unstable or serious condition that requires immediate action resulting in short term care, usually three to five continuous, uninterrupted days, for children who may be at risk for child abuse, neglect, or in an emergency situation;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 12 (5) "Department", the department of revenue;
13 (6) "Director", the director of the department of revenue;
14 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;
15 (8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes withheld
16 under sections 143.191 to 143.265, RSMo.

17 2. Any person residing in this state who legally adopts a special needs child on or after
18 January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten
19 thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied
20 to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to
21 enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit
22 of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may
23 be applied to taxes due under such business entity's state tax liability, except that only one ten
24 thousand dollar credit is available for each special needs child that is adopted.

25 [2.] 3. Any person residing in this state who proceeds in good faith with the adoption of
26 a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to
27 ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to
28 taxes due under chapter 143, RSMo; provided, however, that beginning on or after July 1, 2004,
29 [a minimum of fifty percent] **two million dollars** of the tax credits allowed shall be allocated for
30 the adoption of special needs children who are residents or wards of residents of this state at the
31 time the adoption is initiated. Any business entity providing funds to an employee to enable that
32 employee to proceed in good faith with the adoption of a special needs child shall be eligible to
33 receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each
34 child that may be applied to taxes due under such business entity's state tax liability, except that
35 only one ten thousand dollar credit is available for each special needs child that is adopted.

36 [3.] 4. Individuals and business entities may claim a tax credit for their total nonrecurring
37 adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the
38 credit shall be allowed when the child is placed in the home. A claim for the remaining fifty
39 percent shall be allowed when the adoption is final. The total of these tax credits shall not
40 exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax
41 credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption
42 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars [and
43 shall not exceed] . **The cumulative amount of tax credits that may be claimed by taxpayers**
44 **claiming the credit for nonrecurring adoption expenses shall not be less than** four million
45 dollars **but may be increased by appropriation** in any one fiscal year beginning on or after July
46 1, 2004; provided, however, that [in the first ninety days] **by December thirty-first** following
47 each July first, if less than two million dollars in credits have been issued for adoption of special

48 needs children who are not residents or wards of residents of this state at the time the adoption
49 is initiated, the remaining amount of the [four million dollar] cap shall be available for the
50 adoption of special needs children who are residents or wards of residents of this state at the time
51 the adoption is initiated. **For all fiscal years beginning on or after July 1, 2006, applications**
52 **to claim the adoption tax credit for special needs children who are residents or wards of**
53 **residents of this state at the time the adoption is initiated shall be filed between July first**
54 **and April fifteenth of each fiscal year. For all fiscal years beginning on or after July 1,**
55 **2006, applications to claim the adoption tax credit for special needs children who are not**
56 **residents or wards of residents of this state at the time the adoption is initiated shall be**
57 **filed between July first and December thirty-first of each fiscal year.**

58 [4.] 5. Notwithstanding any provision of law to the contrary, any individual or business
59 entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits
60 claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of
61 the amount sold.

62 [5.] 6. The director of revenue shall establish a procedure by which, for each fiscal year,
63 the cumulative amount of tax credits authorized in this section is equally apportioned among all
64 taxpayers within the two categories specified in subsection 2 of this section claiming the credit
65 in that fiscal year. To the maximum extent possible, the director of revenue shall establish the
66 procedure described in this subsection in such a manner as to ensure that taxpayers within each
67 category can claim all the tax credits possible up to the cumulative amount of tax credits
68 available for the fiscal year.

69 [6. The director of revenue shall submit to the general assembly, by January 1, 2005, and
70 each succeeding year, information by income levels of those individual taxpayers who have
71 qualified and claimed the credit authorized in this section, regardless of whether those taxpayers
72 have assigned, transferred, or sold such credits. The information shall indicate the number of
73 such taxpayers with federal adjusted gross income in the immediately preceding tax year of less
74 than one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and including
75 one hundred ninety thousand dollars, and of more than one hundred ninety thousand dollars.]

76 7. **For all tax years beginning on or after January 1, 2006, a tax credit may be**
77 **claimed in an amount equal to up to fifty percent of a verified contribution to a qualified**
78 **agency and shall be named the "children in crisis" tax credit. The minimum amount of**
79 **any tax credit issued shall not be less than fifty dollars and shall be applied to taxes due**
80 **under chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo. A contribution**
81 **verification shall be issued to the taxpayer by the agency receiving the contribution. Such**
82 **contribution verification shall include the taxpayer's name, Social Security number,**
83 **amount of tax credit, amount of contribution, the name and address of the agency receiving**

84 the credit, and the date the contribution was made. The tax credit provided under this
85 subsection shall be initially filed in the year in which the verified contribution is made.

86 8. The cumulative amount of the tax credits redeemed shall not exceed the
87 unclaimed portion of the resident adoption category allocation as described in this section.
88 The director of revenue shall determine the unclaimed portion available. The amount
89 available shall be equally divided among the agencies meeting the definition of qualified
90 agency to be used towards tax credits issued. In the event tax credits claimed under one
91 agency do not total the allocated amount for that agency, the unused portion for that
92 agency will be made available to the remaining agencies as needed. In the event the total
93 amount of tax credits claimed exceeds the amount available, the amount redeemed shall
94 be apportioned equally to all eligible taxpayers claiming the credit. After all children in
95 crisis tax credits have been claimed, any remaining unclaimed portion of the reserved
96 allocation for adoptions of special needs children who are residents or wards of residents
97 of this state shall then be made available for adoption tax credit claims of special needs
98 children who are not residents or wards of residents of this state at the time the adoption
99 is initiated.

100 9. Prior to December thirty-first of each year, the entities listed under the definition
101 of qualified agency shall apply to the department of social services in order to verify their
102 qualified agency status. Upon a determination that the agency is eligible to be a qualified
103 agency, the department of social services shall provide a letter of eligibility to such agency.
104 No later than February first of each year, the department of social services shall provide
105 a list of qualified agencies to the department of revenue. All tax credit applications to
106 claim the children in crisis tax credit shall be filed between July first and April fifteenth
107 of each fiscal year. A taxpayer shall apply for the children in crisis tax credit by attaching
108 a copy of the contribution verification provided by a qualified agency to such taxpayer's
109 income tax return.

110 10. The tax credits provided under this section shall be subject to the provisions of
111 section 135.333.

112 11. (1) In the event a credit denial, due to lack of available funds, causes a balance
113 due notice to be generated by the department of revenue, or any other redeeming agency,
114 the taxpayer will not be held liable for any penalty or interest, provided the balance is paid,
115 or approved payment arrangements have been made, within sixty days from the notice of
116 denial.

117 (2) In the event the balance is not paid within sixty days from the notice of denial,
118 the remaining balance shall be due and payable under the provisions of chapter 143,
119 RSMo.

120 **12. The director shall calculate the level of appropriation necessary to issue all tax**
121 **credits for nonresident special needs adoptions applied for under this section and provide**
122 **such calculation to the speaker of the house of representatives, the president pro tempore**
123 **of the senate, and the director of the division of budget and planning in the office of**
124 **administration by January thirty-first of each year.**

125 **13. The department may promulgate such rules or regulations as are necessary to**
126 **administer the provisions of this section. Any rule or portion of a rule, as that term is**
127 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
128 **section shall become effective only if it complies with and is subject to all of the provisions**
129 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
130 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
131 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
132 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
133 **authority and any rule proposed or adopted after August 28, 2006, shall be invalid and**
134 **void.**

135 **14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

136 **(1) The provisions of the new program authorized under subsections 7 to 12 of this**
137 **section shall automatically sunset six years after the effective date of this section unless**
138 **reauthorized by an act of the general assembly; and**

139 **(2) If such program is reauthorized, the program authorized under this section**
140 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
141 **section; and**

142 **(3) This section shall terminate on September first of the calendar year immediately**
143 **following the calendar year in which the program authorized under this section is sunset.**

135.333. 1. Any amount of tax credit which exceeds the tax due **or which is applied**
2 **for and otherwise eligible for issuance but not issued** shall not be refunded but may be carried
3 over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may
4 be taken for each child adopted.

5 2. Tax credits that are assigned, transferred or sold as allowed in section 135.327 may
6 be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

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